

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42988 of 2019

Arising Out of PS. Case No.-138 Year-1985 Thana- PALIGANJ District- Patna

1. SURYA DAYAL MOCHI @ SURAJ DAYAL MOCHI S/o Late Ram Swaroop Mochi R/o village- Banauli, Khurd, P.S.- Paliganj, Present P.S.- Khirimore, District- Patna
2. Sidheshwar Yadav @ Sudeshwar Yadav S/o Late Sohawan Yadav R/o village- Banauli, Khurd, P.S.- Paliganj, Present P.S.- Khirimore, District- Patna

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mukund Kumar, Advocate
For the Opposite Party/s : Mr. Aditya Narayan Singh.1

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 27-09-2019 Heard the learned counsel for the petitioners

and the State.

The petitioners seek bail in connection with

Sessions Trial No. 880 of 1986 arising out of Paliganj

P.S. Case No. 138 of 1985 instituted for the offences

under Sections 364/34 of the Indian Penal Code.

The petitioners were granted bail by the court

below on 28.09.1985 but they did not appear at the

time of commitment of the case. The petitioners have to

surrendered before the court below after 32 years.



Presently, the petitioners are in custody since 30.07.2018. There is no reference in the bail petition with respect to the status of the case of the other accused person.

Be that as it may, this Court is inclined to accept the explanation of the petitioners for having remained away from the process of trial for 32 years *viz.* their poverty and the compelling circumstances in which they had to leave their hometown for earning their livelihood. Though it cannot be accepted that the petitioners did not have any idea about the existence of the case as they had taken bail from the court below. Nonetheless, the explanation appears to be quite plausible that they perhaps thought that the case had ended so far as they were concerned.

Wrong knowledge of law is no defence but in the present circumstances, this Court is inclined to grant bail to the petitioners despite them having surrendered after 32 years because of the fact that they have



remained in jail now for more than a year.

Considering the aforestated facts the petitioners above named are directed to be released on bail on his furnishing bail bonds in the sum of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-II, Danapur, Patna in connection with Sessions Trial No. 880 of 1986 arising out of Paliganj P.S. Case No. 138 of 1985.

(Ashutosh Kumar, J)

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